

IN RE:

CLARENCE W. SHIFFLETT, JR.

01 - Elec. App. – 034 (KC)

This matter is an appeal from the Election Administrator's (the "EA") decision 2001 EAD 147, issued February 8, 2001. The hearing was requested by Clarence W. Shifflett, Jr., the protestor and a member of Teamsters Local Union 707 in Hempstead, New York.

A hearing was held before me on February 15, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. and Jason Weidenfeld, Esq. for the Election Administrator's Office; Mr. Shifflett; Mr. Don Grant, a member of Local Union 707; Mr. Vincent Cangelosi, Secretary-Treasurer of Local Union 707; and Mr. Kevin McCaffery, President of Local Union 707. This office received no additional submissions.

The protestor alleges that because of the inclement weather on the day of the January 21, 2001 Local Union 707 nomination meeting, several potential candidates were precluded from having the opportunity to be nominated for delegate or alternate delegate to the International Convention. Mr. Shifflett claims that but for the snow conditions on the day of the meeting he and others would have attended the nomination meeting held in Franklin Square, New York. Mr. Shifflett and other members are from Maybrook, New York, some sixty miles from the meeting place and assert that they were unable to attend due to the five to eight inches of snow that had fallen during the weekend.

The EA denied Mr. Shifflett's protest, finding it to be untimely filed. The EA's investigation found that although Mr. Shifflett spoke to Barbara Deinhardt¹ the day after the nomination meeting about his inability to attend, and that she had recommended that he file a protest, Mr. Shifflett waited until January 31, 2001, eight business days later to do so. In his analysis on the merits, the EA found that since the inclement weather had been predicted for several days before the nomination meeting, Mr. Shifflett and his colleagues could have availed themselves of the provision of the Rules that allows members to submit written nominations, seconds and acceptances prior to the meeting and that the weather did not excuse their failure to take advantage of these precautionary measures.

Therefore, based on the relevant case law cited in the decision and the factual findings, I affirm the EA's denial of this protest on timeliness grounds.

_____/s/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: February 21, 2001

¹ Ms. Deinhardt had conducted the nomination meeting on January 21, 2001.